

RECEIVED
CENTRAL FAX CENTER
JAN 27 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/627,119 Confirmation No.: 3915
Applicant(s): DiTroia, G.
Filed: 7/24/2003
Art Unit: 3729
Examiner: Trinh, Minh N.
Title: Electrical Connector For Angled Conductors
Attorney Docket No.: 003B.0033.U2 (US)
Customer No.: 29,683

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition To Commission
(37 C.F.R. §1.181)

Sir:

This is a petition under 37 C.F.R. §1.181 to invoke the supervisory authority of the Commissioner.

Statement Of Facts

1. In an office action mailed 8/18/2004 the examiner issued a two-way restriction. The two Groups of claims were specified as follows:
 - I. Claims 11-16 and 20-23
 - II. Claims 24-28
2. In a Response filed on 9/3/2004 Applicant's Attorney elected Group I (Claims 11-16 and 20-23), but with traverse.
3. In an office action mailed 11/12/2004, the examiner continued his restriction and made the restriction FINAL.

Point To Be Reviewed

Is the restriction of the claims 11-16 and 20-28 into two different groups of claims proper?

Action Requested

The Assistant Commissioner For Patents is requested to reverse the restriction requirement regarding the restriction of the claims in Groups I and II and direct the examiner to examine claims 11-16 and 20-28.

Discussion

MPEP §806.03 states that:

"Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should **never** be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition." (emphasis added)

Thus, regardless of whether or not the claims might be classified in different classes and subclasses, restriction should not be required where the claims define the same essential characteristics of a single disclosed embodiment.

The examiner stated that the claims of Groups I and II are related as subcombinations disclosed as usable together in a single combination. This is incorrect. In the present case, **all the claims** are directed to "A method of manufacturing an angled conductor electrical connector ...". They are not subcombinations.

Claims 11, 20 and 24 all relate to the single embodiment shown in Figs. 1-4. Thus, regardless of whether or not the claims might be classified in different subclasses, and regardless of

the burdensomeness of the search required by the examiner, restriction should not be required where the claims define the same essential characteristics of a single disclosed embodiment. It also should be pointed out that dependent claims 14 and 15, and 21 and 22 recited "removing" and "bending". Therefore, there is no justifiable reason to restrict out claim 24 because it has "removing" and "bending" recited in it. It appears that the examiner will have to examine class 29, subclass 825 anyway in order to properly examine claims 14, 15, 21 and 22.

Claims 11, 20 and 24 vary in scope, but they all relate to the single embodiment shown in Figs. 1-4. Thus, claims 11, 20 and 24 are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Summary

A requirement for two separate patents does not appear to be appropriate in view of the subject matter of the claims in groups I and II. The claims of Groups I-II (claims 11-16 and 20-23, and claims 24-28) all appear to define the same essential features as specified in MPEP §806.03. The examiner has not shown that the provisions of MPEP 806.05(a)-(i) appear to apply to the claims of Groups I-II. Even if the provisions of MPEP 806.05(a)-(i) were shown to apply to the claims of Groups I-II, because of MPEP §806.03 restriction still would not be proper in this case. Therefore, the Assistant Commissioner For Patents is requested to reverse the examiner's restriction regarding the claims of Groups I-II, and direct the examiner to examine all the claims in these groups (i.e., claims 11-16 and 20-28).

Respectfully submitted,

Mark F. Harrington
Mark F. Harrington (Reg. No. 31,686)

1/27/05
Date

Customer No.: 29683
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212
203-925-9400

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

1/27/05
Date

Mark F. Harrington
Name of Person Making Deposit